

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Advanced Television Systems and )  
Their Impact upon the Existing )  
Television Broadcast Service )

**MM Docket No. 87-268**

To: The Commission - Mail Stop 1170

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**COMMENTS OF MONTGOMERY PUBLICATIONS, INC.**

1. Montgomery Publications, Inc. (Montgomery) hereby submits these comments in response to the Commission's *Sixth Further Notice of Proposed Rule Making* in this proceeding, FCC 96-317, released August 14, 1996. Montgomery is the licensee of low power television (LPTV) stations KTMJ-LP, Channel 6, Junction City, Kansas, and K15DQ, Manhattan, Kansas. It is also the permittee of K17CK, Topeka, Kansas, with an application pending to move to Emporia, and K43EO, Topeka, with a major change pending in the same community. Montgomery's stations form a network that provides Fox and UPN Television Network services throughout the Topeka ADI. Its stations have a full schedule of television programming that includes a substantial amount of local news and information relating to Fort Riley, a major military installation near Junction City. The pending major change applications will round out network coverage of the ADI.

2. Montgomery appears to be one of the more fortunate LPTV operators in that only K15DQ appears to be destined for certain displacement, in this case by a co-channel digital allotment proposed to be paired with NTSC Channel 18 at Salina, Kansas, occupied by KAAS-TV. However, there are few enough television stations in the state of Kansas that TV

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spectrum is not scarce, so it escapes Montgomery why the Commission finds it necessary to deprive a significant community of Fox and UPN service when there are ample alternatives. Indeed, the attached engineering statement indicates that at least Channels 35, 44, 47, and 50 are available as substitutes for Channel 15. Why should the residents of Manhattan not be able to watch the Super Bowl on Fox? There is no reason to displace an LPTV station unless there is no possible alternative digital allotment available.

3. Montgomery has made a very large investment in good faith in the LPTV industry. It recognizes that its licenses are secondary to full power stations, but it never contemplated that the Commission would replace the NTSC system of assigning one station at a time with a broad-brush sweep that doubles the number of full power channels and chops off a large piece of the TV spectrum at the same time, leaving LPTV to fall by the wayside using the excuse that the service is "secondary." Reducing the federal deficit is a good idea, but all of the people should share in the burden, rather than imposing it on a particular group of small businesspeople who personify the kind of capitalism on which this country has thrived.

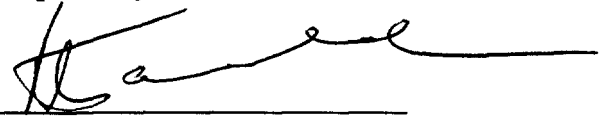
4. The Commission has exhibited a positive attitude toward LPTV in the *Sixth Further Notice*, and Montgomery appreciates that fact. However, the Commission must go further than wanting to help TV; it must want not to hurt LPTV. It cannot depend on the full power industry, with which LPTV competes, to solve the problem. In Montgomery's case in particular, its full power competitors are not pleased that Montgomery has obtained the Fox network affiliation in the Topeka ADI, and Montgomery does not believe that those competitors will make any effort to avoid damage to Montgomery's low power stations. Therefore, allowing digital allotment changes through private "negotiations" is not acceptable. The Commission

itself must be deeply involved and must make solving the LPTV problem a high priority. Certainly no spectrum should be reallocated or auctioned until the LPTV problem has been solved.

5. Montgomery is a member of the Community Broadcasters Association (CBA) and urges the Commission to give careful suggestion to several technical proposals being made by CBA in its comments in this proceeding.

Montgomery Publications, Inc.  
Station KTMJ  
222 West Sixth St.  
Junction City, KS 66441

Respectfully submitted,



Peter Tannenwald

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November 22, 1996

Counsel for Montgomery  
Publications, Inc.

**ENGINEERING STATEMENT IN  
SUPPORT OF COMMENTS**

**MM DOCKET 87-268**

**Montgomery Publications, Inc.  
Ogden, KS**

**November 21, 1996**

**Prepared for: Mr. Robert Raff  
Montgomery Publications, Inc.  
222 W. Sixth Street  
Junction City, KS 66441**

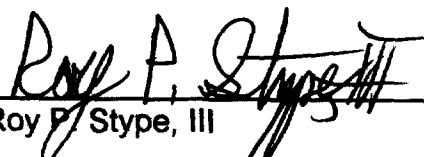
**CARL E. SMITH CONSULTING ENGINEERS**

**ENGINEERING AFFIDAVIT**

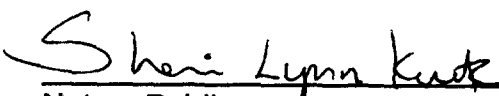
State of Ohio                                 )  
  ) ss:  
County of Summit                         )

Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained by Montgomery Publications, Inc., to prepare the attached "Engineering Statement In Support Of Comments - MM Docket 87-268."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

  
\_\_\_\_\_  
Roy P. Stype, III

Subscribed and sworn to before me on **November 21, 1996.**

  
\_\_\_\_\_  
Notary Public

/SEAL/

SHERI LYNN KURTZ, Notary Public  
Residence - Summit County  
State Wide Jurisdiction, Ohio  
My Commission Expires June 14, 2000

## ENGINEERING STATEMENT

This engineering statement is prepared on behalf of Montgomery Publications, Inc., licensee of Low Power TV station K15DQ - Ogden, Kansas, in support of comments responsive to the Sixth Further Notice of Proposed Rulemaking in MM Docket 87-268, the DTV allotment proceeding. K15DQ operates on Channel 15 with a non-directional peak visual effective radiated power of 10.9 kilowatts. The K15DQ transmitter site is located 67.3 kilometers east of the transmitter site of KAAS-TV - Salina, Kansas, whose licensed NTSC operation is on Channel 18. The draft table of Digital TV ("DTV") allotments contained in the Sixth Further Notice in this proceeding proposed to allot Channel 15 to Salina for DTV use by KAAS-TV with an effective radiated power of 50 kilowatts at 317 meters above average terrain. The K15DQ transmitter site lies within the predicted 43.8 dBu noise limited contour for the Channel 15 DTV facilities proposed for KAAS-TV in this draft table. Thus, it is obvious that continued operation by K15DQ on Channel 15 would cause interference to the DTV operation proposed for KAAS-TV in this draft table, since it is impossible to provide the required protection to a cochannel facility, either DTV or NTSC, from a transmitter site located within its protected contour.

Given the limited use of the TV broadcast spectrum in this area, however, there is no reason why it should be necessary for K15DQ to have to cease operating on Channel 15 in order to accommodate DTV operation by KAAS-TV. Based upon the technical data outlined in Appendix A of this Sixth Further Notice and the proposed separation requirements outlined in Paragraph 98 of this same document, there appear to be several alternate channels available for use by KAAS-TV which would not conflict with

any authorized or proposed NTSC facility or any of the DTV allotments proposed in this draft table and would also not result in the displacement of K15DQ or any other Low Power TV or TV translator station. In particular, it appears that there are four channels in the so called "core spectrum" (35, 44, 47, and 50) which could be utilized by KAAS-TV for DTV operation without conflicting with any NTSC or proposed DTV facilities or jeopardizing any LPTV or TV translator stations. There also appear to be several additional channels outside the "core spectrum" which could also be utilized by KAAS-TV for DTV operation while meeting the criteria outlined above.

Based upon the above information, it appears that the proposed allotment of Channel 15 to Salina, Kansas, for DTV use by KAAS-TV would result in the needless displacement of K15DQ - Ogden, Kansas, when alternate allotments are possible which would not result in the displacement of any LPTV or TV translator stations. Thus, the public interest would be better served by allotting one of these alternate channels to Salina for DTV use by KAAS-TV.